

AMENDED IN ASSEMBLY JULY 2, 2002

AMENDED IN SENATE MAY 2, 2002

**SENATE BILL**

**No. 1951**

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**Introduced by Senator Figueroa**

**(Coauthors: Senators Johannessen and Polanco)**

(Coauthors: Assembly Members Aanestad, Correa, and Thomson)

February 22, 2002

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An act to amend Sections 4928, 4929, 4933, and 4934 of, and to add Sections 4934.1 and 4934.2 to, the Business and Professions Code, relating to professional boards.

LEGISLATIVE COUNSEL'S DIGEST

SB 1951, as amended, Figueroa. Professional boards: acupuncture board.

Existing law provides for the regulation of various professions by professional boards within the Department of Consumer Affairs, including the regulation of the practice of acupuncture by the Acupuncture Board. Existing law provides, until July 1, 2003, that the board consists of 9 members. Existing law requires the board, until July 1, 2003, to employ an executive officer and other personnel necessary for the administration of the laws regulating the practice of acupuncture. Existing law provides that those provisions of law are repealed on January 1, 2004.

This bill would delete the July 1, 2003, and January 1, 2004, dates upon which those provisions establishing the board and requiring it to employ an executive officer and other personnel become inoperative and are repealed. The bill would instead extend the operation of those

provisions until July 1, 2005, and would repeal those provisions on January 1, 2006.

Existing law requires the Acupuncture Board to include 4 acupuncturists that are not licensed as physicians and surgeons.

This bill would instead require the board to include 3 acupuncturists who are not licensed as physicians and surgeons and one acupuncturist who is a faculty member of an acupuncture college approved by the board.

Existing law provides that a majority of the appointed board members constitutes a quorum for the conduct of business.

This bill would provide that 5 members of the board constitutes a quorum for the conduct of business.

This bill would ~~require the department and the board~~ *request the Milton Marks "Little Hoover" Commission on California State Government Organization and Economy* to conduct separate reviews addressing specified issues with respect to the practice of acupuncture. The bill would ~~require the department~~ *request the commission* to report its findings ~~from its review~~ to the Legislature by September 1, 2004. The bill would *also* require the board to *conduct certain studies and reviews relating acupuncture assistants and* report its findings ~~from its review~~ to the department and the Joint Legislative Sunset Review Committee by September 1, 2004.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 4928 of the Business and Professions
- 2 Code is amended to read:
- 3 4928. The Acupuncture Board, which consists of nine
- 4 members, shall enforce and administer this chapter.
- 5 This section shall become inoperative on July 1, 2005, and, as
- 6 of January 1, 2006, is repealed, unless a later enacted statute,
- 7 which becomes effective on or before January 1, 2006, deletes or
- 8 extends the dates on which it becomes inoperative and is repealed.
- 9 The repeal of this section renders the board subject to the review
- 10 required by Division 1.2 (commencing with Section 473).
- 11 SEC. 2. Section 4929 of the Business and Professions Code
- 12 is amended to read:

1 4929. Three members of the board shall be acupuncturists  
2 with at least five years of experience in acupuncture and not  
3 licensed as physicians and surgeons, one member of the board shall  
4 be a licensed acupuncturist who is also a faculty member of any  
5 board approved acupuncture college, one member of the board  
6 shall be a physician and surgeon licensed in this state with two  
7 years of experience in acupuncture, and four members shall be  
8 public members who do not hold a license or certificate as a  
9 physician and surgeon or acupuncturist.

10 The Governor shall appoint the four acupuncturist members  
11 qualified as provided in this section, who shall be appointed to  
12 represent a cross section of the cultural backgrounds of licensed  
13 members of the acupuncturist profession, two of the public  
14 members, and the one licensed physician and surgeon member  
15 qualified as provided in this section. All members appointed to the  
16 board by the Governor shall be subject to confirmation by the  
17 Senate. The Senate Rules Committee and the Speaker of the  
18 Assembly shall each appoint a public member. Any member of the  
19 board may be removed by the appointing power for neglect of  
20 duty, misconduct, or malfeasance in office, after being provided  
21 with a written statement of the charges and an opportunity to be  
22 heard.

23 SEC. 3. Section 4933 of the Business and Professions Code  
24 is amended to read:

25 4933. (a) The board shall administer this chapter.

26 (b) The board may adopt, amend, or repeal, in accordance with  
27 the Administrative Procedure Act (Chapter 3.5 (commencing with  
28 Section 11340) of Part 1 of Division 3 of Title 2 of the Government  
29 Code), regulations as may be necessary to enable it to carry into  
30 effect the provisions of law relating to the practice of acupuncture.

31 (c) Five members of the board shall constitute a quorum to  
32 conduct business.

33 (d) It shall require an affirmative vote of a majority of those  
34 present at a meeting of the board to take any action or pass any  
35 motion.

36 SEC. 4. Section 4934 of the Business and Professions Code  
37 is amended to read:

38 4934. The board shall employ personnel necessary for the  
39 administration of this chapter; however, the board may appoint an

1 executive officer who is exempt from the provisions of the Civil  
2 Service Act.

3 This section shall become inoperative on July 1, 2005, and, as  
4 of January 1, 2006, is repealed, unless a later enacted statute,  
5 which becomes effective on or before January 1, 2006, deletes or  
6 extends the dates on which it becomes inoperative and is repealed.

7 The repeal of this section renders the board subject to the review  
8 required by Division 1.2 (commencing with Section 473).

9 SEC. 5. Section 4934.1 is added to the Business and  
10 Professions Code, to read:

11 4934.1. (a) ~~The Department of Consumer Affairs, in~~  
12 ~~conjunction with the board and the Joint Legislative Sunset~~  
13 ~~Review Committee, shall~~ *Legislature requests the Milton Marks*  
14 *“Little Hoover” Commission on California State Government*  
15 *Organization and Economy to conduct a comprehensive analysis*  
16 *consisting of the following reviews and evaluations and shall*  
17 *report their findings and recommendations to the Legislature by*  
18 *September 1, 2004:*

19 (1) Review and make recommendations on the scope of  
20 practice for acupuncturists.

21 (2) Review and make recommendations on the educational  
22 requirements for acupuncturists.

23 (3) Evaluate the national examination, administered by the  
24 National Certification Commission for Acupuncture and Oriental  
25 Medicine, and make recommendations as to whether or not the  
26 national examination should be offered in California in lieu of, or  
27 as part of, the state examination.

28 (4) Evaluate and make recommendations on the approval  
29 process of the Accreditation Commission of Acupuncture and  
30 Oriental Medicine, the approval process of the Bureau for Private  
31 Postsecondary Education, and the board’s approval process.

32 (b) ~~For purposes of subdivision (a), the following shall apply:~~

33 (1) ~~The department shall employ the services of an independent~~  
34 ~~consultant to perform the comprehensive analysis.~~

35 (2) ~~The department may enter into an interagency agreement or~~  
36 ~~shall be exempted from obtaining sole source approval for a sole~~  
37 ~~source contract.~~

38 (3) ~~The board shall pay for all of the costs associated with the~~  
39 ~~comprehensive analysis.~~

1 SEC. 6. Section 4934.2 is added to the Business and  
2 Professions Code, to read:

3 4934.2. The board shall conduct the following studies and  
4 reviews, and shall report its findings and recommendations to the  
5 department and the Joint Legislative Sunset Review Committee no  
6 later than September 1, 2004:

7 (a) The board shall conduct a comprehensive study of the use  
8 of unlicensed acupuncture assistants and the need to license and  
9 regulate those assistants.

10 (b) The board shall study and recommend ways to improve the  
11 frequency and consistency of their auditing and the quality and  
12 relevance of their courses.

